

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22411-2024 (O&M)

Vinod Kumar

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

1.	Judgment reserved on	16.01.2026
2.	Judgment pronounced on	13.03.2026
3.	Judgment uploaded on	16.03.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. DS Patwalia, Sr.Advocate with
Mr. Gouravjit Singh Patwalia, Advocate and
Mr. PC Kadyan, Advocate for the petitioner

Mr. Rahul Dev Singh, Addl. AG Haryana

Respondents No.4 to 10 already given up

Mr. SS Surjewala, Advocate for respondent No.11

Sandeep Moudgil, J.

- (1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, inter alia, for issuing a writ of certiorari quashing the promotion order dated 16.08.2024 (Annexure P-5) to the extent junior to the petitioner, namely, respondents No.5 to 11 have been promoted to the post of Executive Engineers (Civil) by ignoring the candidature of the petitioner, who is higher in order of seniority as per the seniority list dated 22.10.2023 (Annexure P-4). Inter alia, a further direction is sought to the respondents No.1 to 3 to consider and promote the petitioner to the post of Executive Engineer (Civil) in the light of instructions dated 01.07.2022 (Annexure P-6).
- (2). Learned counsel for the petitioner submits that the petitioner was initially appointed as Junior Engineer (Civil) vide order dated 16.09.2010

(Annexure P1) and since he was suffering from 50% locomotor disability, he was subsequently promoted as Sub Divisional Engineer (Civil)/Assistant Engineer (Civil) under 4% reservation meant for the disability quota. He then submits that the as per seniority list dated 22.10.2023 (Annexure P4) of Assistant Engineers (Civil), the petitioner was placed at Sr.No.11 whereas respondents No.5 to 11 rank much below in the rung of seniority than the petitioner.

(3). It is contended that promotion to the post of Executive Engineer is governed by the Haryana Service of Engineers (Group A) Public Works (Buildings & Roads) Department Act, 2010 and under Section 9 of the said Act, provides for promotion to be made strictly on the basis of seniority-cum-merit, however, his candidature has been ignored statedly on the ground that there is no vacancy earmarked for the PwBD category in promotional cadre.

(4). Reliance has been placed on the instructions dated 01.07.2022 for grant of reservation in promotion to the persons with Benchmark Disabilities under the Rights to Persons with Disabilities Act, 2016 and Clause 8.1 of the said instructions which provides that a PwBD candidate otherwise eligible for promotion cannot be denied the same solely on the ground that no vacancy is earmarked as such for that category.

(5). Short reply dated 03.09.2025 has been filed by Anil Kumar Dahiya, Engineer-in-Chief, Public Works (B&R) Department, Haryana on behalf of respondents No.1 to 3, the relevant portion thereof reads as under:-

“3. That as per the instructions issued by the Government from time to time a roster register for Person with Disability has been prepared by the respondent department as per instruction dated

01.07.2022 and earmarked 3% from 01.01.1996 to 18.04.2017 and 4% reserved with effect from 19.04.2017 onwards for PwBDs.

4. That the instruction regarding Person with Disability issued on dated 01.7.2022 point No. 2.3 is reproduced here below:-

"Against the posts identified for each disability, one per cent each shall be reserved for PwBDs under clauses (a), (b) and (c), respectively, and one per cent combined, under clause (d) and (e) below unless otherwise excluded under the provisions of Para3 herein under:-

a) Blindness and low vision:
b) Deaf and hard of hearing
c) Locomotors, disability including cerebral palsy, leprosy cured, dwarfism, acid attack victim and muscular dystrophy:
d) Autism, intellectual disability, specific learning disability and mental illness:
e) Multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness.

5. That the instruction issued by Government on 01.07.2022 at point 11 is reproduced here below:-

11. Effecting reservation Maintenance of Rosters

11.1 "Every Government establishment shall maintain, cadre-wise and group-wise, a separate 100-point vacancy-based reservation roster/register, as in the case of direct recruitment, for determining/effecting reservation for the PwBDs in promotion. There will be separate roster/register, in each cadre in Group A, B, C & D, whereas reservation in promotion for PwBD is applicable. There shall be separate roster/register for promotion and direct recruitment. Copy of Roster/Register is available at Annexure-A.

11.2 Each register shall have cycles of 100 points and each cycle of 100 points shall be divided into four blocks, comprising the following points:

1st Block - Point no. 01 to point no. 25,

2nd Block-Point no. 26 to point no. 50,

3rd Block-Point no. 51 to point no. 75,

4th Block - Point No. 76 to point no. 100"

6. That the Human Resources Department notification dated 25th March 2022 regarding benefit of reservation to the post employees who get disabled in service is reproduced below:-

XV Benefit of reservation to the post of employees who get disabled in service:-

(c) if a person of benchmark disability is promoted on higher post against his earmarked vacancy, the original seniority for promotion his normal line of hierarchy shall remain intact. Meaning thereby, the original seniority of a disabled employee shall not be disturbed even if he has been promoted to higher post.

(d) Further promotion of disabled employee to the Higher post shall again be subject to availability of earmarked vacancy for the person with disability."

7. That the Human Resources Department notification dated 2nd May 2025 regarding reservation in promotion to Person with Benchmark Disabilities (PwBDs) Point No. 3 is reproduced below:-

"3. It is also reiterated that the benefit of reservation in promotion is without consequential seniority and for promotion on the basis of seniority-cum-merit, the seniority of all the disabled persons will be fixed separately by each Department in their respective cadre."

8. That the petitioner has been promoted from the post of Junior Engineer (Civil) to the post of Sub Divisional Engineer (Civil) under 4% reservation meant for Person with Disability quota in promotion on 26.07.2018.

9. That the roster register has been reached at cycle 1 point 72 in which block 51 to 75 for OH category has already been occupied

by respondent No. 4 i.e. Sh. Sombir, Executive Engineer (Civil) who is senior to the petitioner.

10. That roster point 76 in cycle 4 i.e. block 76 to 100 has been gone to Sh. Atender Singh, Sub Divisional Engineer (Civil) to the promotional post of Executive Engineer (Civil) who is immediate senior to the petitioner as per tentative list of Sub Divisional Engineer (Civil) of PwBDs.

11. That Human Resources Department notification No. 22/59/2020-1 HR-III dated 11th July 2023 regarding reservation in promotion to the Persons with Benchmark Disabilities under the Rights of Persons with Disabilities, Act 2016, Point 9 Relaxation of Standard of Suitability is reproduced below:-

"9.1 If sufficient number of PwBD candidates with benchmark disabilities are not available on the basis of prescribed standard to fill all the vacancies (in case of promotion through Limited Departmental Competitive Examination/Departmental Examination, etc.) reserved for them, Candidates belonging to this category may be selected on relaxed standard to fill up the remaining vacancies reserved for them, provided they are not found unfit for such post or posts. However, this provision shall not be used to allow any relaxation in the eligibility criteria laid down for the issuance of certificate of benchmark disability.

9.2 The same relaxed standard should be applied for all the PwBD candidates with benchmark disabilities, irrespective of whether they belong to the Unreserved/Scheduled Caste/Backward Classes category. No further relaxation of standards will be considered or admissible in favour of any candidate from any category whatsoever."

12. That no slot has been arisen yet as per the tentative roster register of Executive Engineer (Civil) of PwBDs category."

(6). Written statement dated 15.01.2026 has also been filed by Mr. Suryaveer Singh Surjewala, Advocate on behalf of respondent No.11 which is taken on record. He submits that Clause 8.1 of the instructions dated 01.07.2022 is applicable in cases where promotion is based on seniority-cum-fitness and that the candidate must be otherwise eligible and should be in the light of finally approved candidates for promotion whereas the petitioner was never in the list of candidates approved for promotion so as to claim benefit under Clause 8.1 of the said instructions.

(7). It is further averred that the initial appointment of the petitioner was under disability quota and he earned subsequent promotion also under the earmarked vacancy and therefore, as per Human Resources Department notification dated 25.03.2022 relied upon by respondents No.1 to 3 in their reply, it has been provided that when a person with benchmark disability is promoted to higher post against his earmarked vacancy, then further future promotion to the higher post shall be subject to availability of earmarked vacancy for the persons with disability.

(8). Heard learned counsel for the parties and the judgment was kept reserved on 16.01.2026.

(9). From the pleadings and the material placed on record, it is not in dispute that the petitioner has already availed the benefit of reservation in promotion under the PwBD quota while being promoted from the post of Junior Engineer (Civil) to the post of Sub Divisional Engineer (Civil)/Assistant Engineer (Civil) vide order dated 26.07.2018, against an earmarked vacancy reserved for persons with disabilities, in terms of the applicable State instructions. As per the stand of respondents No.1 to 3, the cadre-wise

100-point vacancy-based roster for PwBDs has been prepared and implemented in consonance with instructions dated 01.07.2022, and the roster for the promotional post of Executive Engineer (Civil) has, as on date, reached Cycle-1, Point-72 in Block 51–75, which point already stands occupied by one Sombir, Executive Engineer (Civil), who is senior to the petitioner in the PwBD stream. It is further specifically pleaded that the next relevant roster point (Point 76 in Block 76–100) for PwBDs in the said cadre has been utilized in favour of one Jitender Singh, who is immediate senior to the petitioner in the tentative seniority list of Sub Divisional Engineers (Civil) belonging to PwBD category, and that no further slot for PwBDs has yet arisen in the roster for the post of Executive Engineer (Civil).

(10). The petitioner's entire claim rests substantially on Clause 8.1 of the instructions dated 01.07.2022 (Annexure P6), which stipulates that a PwBD candidate, who is otherwise eligible for promotion, shall not be denied promotion solely on the ground that no vacancy is earmarked for that category, coupled with the plea of his higher placement in the general seniority list of Assistant Engineers (Civil) vis-à-vis respondents No.5 to 11. Clause 8.1 of the said instructions reads as under:-

“In case of promotions by seniority-cum-fitness, if a PwBD is otherwise eligible and is in the list of candidates finally approved for promotion, he/she may be promoted against the vacancy not specifically reserved for PwBD. In other words, a PwBD cannot be denied promotion on the ground that the vacancy is not earmarked for his category.”

(11). Clause XV of the notification dated 25.03.2022 issued by the Human Resources Department pertains to benefit of reservation to the post of employees who get disabled in service and the same read as under:-

“(c) if a person of benchmark disability is promoted on higher post against his earmarked vacancy, the original seniority for promotion his normal line of hierarchy shall remain intact. Meaning thereby, the original seniority of a disabled employee shall not be disturbed even if he has been promoted to higher post. (d) further promotion of disabled employee to the higher post shall again be subject to availability of earmarked vacancy for the person with disability.”

(12). The above notification clarifies that where a person with benchmark disability is promoted against an earmarked PwBD vacancy, his *“original seniority for promotion in his normal line of hierarchy shall remain intact”* and that any further promotion to a still higher post *“shall again be subject to availability of earmarked vacancy for the persons with disability”*. Thus, the scheme consciously delinks the accelerated promotional benefit under the disability quota from the grant of consequential seniority, and simultaneously conditions future promotions on the emergence of an appropriate roster point reserved for PwBDs in the promotional cadre.

(13). In this backdrop, the petitioner cannot successfully contend that respondents No.5 to 11, who are admittedly junior to him in the general seniority list of Assistant Engineers (Civil), could not have been promoted to the post of Executive Engineer (Civil) in the absence of his own promotion. The promotions of respondents No.5 to 11 appear to have been made against general/other category vacancies in terms of the applicable Service Act and rules. The petitioner, on the other hand, seeks elevation specifically by

invoking the PwBD reservation instructions. Once the petitioner has already benefited from a reserved promotional slot under the disability quota in the year 2018, his further advancement in the same line of promotion must necessarily track the PwBD roster and can only be claimed as and when an earmarked PwBD point arises in the roster for Executive Engineers (Civil), in consonance with the notifications dated 25.03.2022 and 11.07.2023. The mere fact that he is placed higher than respondents No.5 to 11 in the general seniority list of Assistant Engineers (Civil) does not, by itself, entitle him either to displace them from their promotions or to secure a mandamus directing his promotion dehors the roster, particularly when the statutory regime prescribes seniority-cum-merit as the governing criterion, subject to horizontal reservation in favour of PwBDs to be effectuated strictly through the notified roster.

(14). The reliance placed by the petitioner on Clause 8.1 of the instructions dated 01.07.2022 is also misconceived when read in isolation. Clause 8.1 is designed to ensure that a PwBD candidate, who falls within the zone of consideration and is otherwise eligible and found fit, is not denied promotion only because the particular vacancy against which he is being considered is not labelled as “PwBD vacancy”. Moreover, as highlighted in the written statement of respondent No.11, Clause 8.1 presupposes that the PwBD candidate is part of the finally approved panel/selection for promotion on the basis of the applicable criteria and it is only at that stage that the protective clause is attracted to prevent denial solely on the ground that no vacancy is specially earmarked. However, in the present case, there is nothing on record to show that the petitioner’s name stood included in any duly approved select list or panel of candidates for promotion to Executive Engineer (Civil), or that he

was adjudged fit and yet denied promotion only on the ground of non-availability of an earmarked PwBD slot. Instead, the consistent and collective stand of the respondents is that the relevant PwBD points in the roster have already been consumed by officers senior to the petitioner within the PwBD stream and that no further slot has become available so far.

(15). Viewed thus, the grievance raised herein that the petitioner has been “ignored” for promotion in violation of Section 9 of the Haryana Service of Engineers (Group A) Public Works (Buildings & Roads) Department Act, 2010, which prescribes seniority-cum-merit, does not stand substantiated. Seniority-cum-merit applies within the relevant zone of consideration vis-à-vis available vacancies in the cadre, and where reservation is provided horizontally for PwBDs, the zone of consideration and inter se seniority within the PwBD stream must be applied with reference to the roster and the specific earmarked points.

(16). Accordingly, the writ petition is dismissed being devoid of any merit.

(17). Pending application(s), if any, stands disposed of.

13.03.2026
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned? :
2. Whether reportable? :

Yes/No
Yes/No